

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robert Langdon	Team: Team # 7	CCRB Case #: 200814682	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/10/2008 7:00 PM	Location of Incident: § 87(2)(b)	Precinct: 71	18 Mo. SOL 4/10/2010	EO SOL 4/10/2010	
Date/Time CV Reported Tue, 10/14/2008 10:03 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/14/2008 10:03 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Juan Quiroz	09868	939263	071 PCT
2. Terence Deitch		943142	

Officer(s)	Allegation	Investigator Recommendation
A.POM Juan Quiroz	Force: PO Juan Quiroz used physical force against § 87(2)(b)	§ 87(2)(b)
B. Terence Deitch	Abuse: PO Terence Deitch searched the car in which § 87(2)(b) was an occupant.	§ 87(2)(b)

Case Summary

On October 14, 2008, § 87(2)(b) reported a complaint about the following incident via telephone.

On October 10, 2008, at approximately 7:00 PM, § 87(2)(b) was in the alleyway behind his house at § 87(2)(b) in Brooklyn when PO Juan Quiroz and PO Terence Deitch approached him. The following allegations resulted:

- **Allegation A – Force:** PO Juan Quiroz used physical force against § 87(2)(b) § 87(2)(g)
- **Allegation B – Abuse of Authority:** PO Terence Deitch searched the vehicle in which § 87(2)(b) was an occupant. § 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male who is 5'9" tall and weighs 150 lbs. § 87(2)(b)

On November 3, 2008, § 87(2)(b) was interviewed at the CCRB (encl. 5). On October 10, 2008, at approximately 7:00 PM, § 87(2)(b) was sitting in his van in the driveway of his building at § 87(2)(b) in Brooklyn. § 87(2)(b) was in the driver's seat of his van, watching his friend, who he only knows as "§ 87(2)(b)" work on his own vehicle. § 87(2)(b)'s headlights were providing light for § 87(2)(b). Neither § 87(2)(b) nor § 87(2)(b) had music on at the time. There was no music on in the area. § 87(2)(b)'s § 87(2)(b)-year-old next-door neighbor, § 87(2)(b) came outside and began speaking with § 87(2)(b) about music and CDs. § 87(2)(b) § 87(2)(b) leaned on the van at the driver's side window while speaking with § 87(2)(b).

§ 87(2)(b) said, "Two officers coming." The officers, PO Juan Quiroz and PO Terence Deitch came from behind the gate. The gate was open just enough for a person to squeeze through. PO Quiroz walked up to § 87(2)(b) and said, "Can I have your ID?" § 87(2)(b) said, "Yes, here it is." PO Quiroz repeatedly asked § 87(2)(b) "Do you live here?" § 87(2)(b) replied, "Yes," each time. § 87(2)(b) handed PO Quiroz his identification, a New York State driver's license. PO Quiroz said, "Step out of the van." § 87(2)(b) stepped out of the van and stood between the open door and the van. PO Quiroz again said, "Do you live here?" § 87(2)(b) said, "My brother is right here and this guy is right here working on his car." At this time, § 87(2)(b)'s brother, § 87(2)(b) opened the garage door. § 87(2)(b) was standing approximately twelve to thirteen feet away from § 87(2)(b). § 87(2)(b) called to § 87(2)(b) to confirm that § 87(2)(b) lived there to PO Quiroz. Before § 87(2)(b) was able to do anything, PO Quiroz told PO Deitch to handcuff § 87(2)(b). PO Quiroz himself then grabbed § 87(2)(b)'s left shoulder and turned his body, causing § 87(2)(b) to lose his balance. PO Quiroz swung § 87(2)(b) around and struck him in the small of his back with his knee, causing § 87(2)(b) to hit the van with the right side of his stomach and the right side of his right calf. PO Deitch handcuffed § 87(2)(b).

PO Quiroz pushed § 87(2)(b) to the marked police van, which was parked outside the gate on Empire Boulevard. § 87(2)(b) had to walk approximately fifteen to sixteen feet from the gate to get to the van. § 87(2)(b) was placed in the right side of the van in the seat behind the front seats. PO Quiroz went back and then the officers started to search his van. PO Deitch entered the van completely on both sides. § 87(2)(b) could not see very well because the police van was at the end of the driveway. PO Quiroz returned to the police van and told § 87(2)(b) “Say you cursed me. If you say you cursed me, I’m going to let you out, but if you say you don’t curse me, I’m going to take you in.” § 87(2)(b) said, “Officer, I never cursed you.” PO Quiroz told PO Deitch, “Drive.”

The officers took § 87(2)(b) to the precinct. § 87(2)(b) started feeling pain. § 87(2)(b) asked PO Quiroz several times to get him an ambulance. PO Quiroz ignored him. PO Quiroz said to § 87(2)(b) “Listen, if you plan to do anything, if you’re planning to sue me or anything, I’m going to get you and sue you right back.”

When § 87(2)(b) returned home, he saw that personal papers and documents had been taken out of the compartment above the windshield inside the van, near the rearview mirror. This compartment had been closed. The papers had been left on the floor of the van behind the front seats.

§ 87(2)(b) provided two photos taken by him on October 12, 2008 of alleged injuries sustained during the incident (encl. 5H-I). Both photos depict a faint discoloration on his leg which may or may not be bruises.

On October 28, 2008, § 87(2)(b) provided a brief telephone statement to the CCRB (encl. 4). This statement was similar to his official statement. The telephone statement did not mention requesting medical treatment, but § 87(2)(b) did not describe what happened after leaving the incident in the police van.

The medical records from the incident date indicate that § 87(2)(b) told the EMS workers that he was injured during the arrest, had a herniated disk, and struck his leg against the base of the door while entering the police vehicle (encl. 13G). His chief complaint to the physician was pain to his lower back and right leg.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black male with black hair and brown eyes who is 5’10” tall and weighs 180 lbs.

On November 13, 2008, § 87(2)(b) was interviewed at the CCRB (encl. 7). At approximately 7:30 PM to 7:45 PM on the incident date, § 87(2)(b) was coming out of his house and going to the garage, intending to leave. He did not hear any music while he was inside his home and did not hear any music when he left. He was exiting out of the back of his house, which opened onto the gated driveway. As soon as § 87(2)(b) exited his door, walked a few steps, and reached the top of the stairs down to the driveway, he saw § 87(2)(b) standing with two officers near the driver’s side of his van, which was parked in the driveway, pointing into the driveway. § 87(2)(b) and the officers were standing past § 87(2)(b)’s van, and § 87(2)(b) could see them over the hood of § 87(2)(b)’s van. It was dim outside, but the lights from § 87(2)(b)’s van illuminated § 87(2)(b) and the officers. § 87(2)(b) called out to § 87(2)(b) “Look at this.” § 87(2)(b)

§ 87(2)(b) walked down the stairs. § 87(2)(b) was facing the two officers at first. They were a foot away from him and were not touching him. PO Quiroz grabbed § 87(2)(b) by the left arm, turned him, and pushed him against the driver's door of his van. PO Quiroz put his knee into § 87(2)(b)'s back, causing § 87(2)(b) to yell out. § 87(2)(b) was not making any movements and did not appear to be resisting the officers. § 87(2)(b) did not hear the officers say anything to § 87(2)(b) before touching him. § 87(2)(b) was standing approximately six feet away from § 87(2)(b) at the time that this occurred.

The officers handcuffed § 87(2)(b). § 87(2)(b) kept saying, "Why, why, for what? I'm in my back yard." PO Quiroz said that he had to give § 87(2)(b) a summons for loud music. The officers carried § 87(2)(b) toward the police van, which was parked directly in front of the driveway. The officers searched § 87(2)(b)'s pockets. PO Deitch pulled out § 87(2)(b)'s wallet and keys, opened the wallet, and took out his identification. PO Quiroz told PO Deitch to search the van. PO Deitch came back to § 87(2)(b)'s van, opened the driver's side door, took out his flashlight, and began to search the van. He looked at the dashboard and seats for approximately one minute, pointing the flashlight. He then went to the passenger's side door, opened it, and looked at the dashboard and seats with the flashlight for approximately one minute. He never entered the van entirely; his feet were on the ground, but his upper body was inside the van. PO Deitch walked away and returned, and then opened the driver's door, put the keys and the wallet on the seat of § 87(2)(b)'s van, and proceeded to look around the front of the van for a few more minutes. PO Deitch never appeared to move or open anything. PO Deitch returned to the police van and § 87(2)(b) followed him. PO Quiroz told § 87(2)(b) that they were just going to give § 87(2)(b) a summons for the loud music, but because § 87(2)(b) started cursing them, they were going to bring him to the stationhouse, issue him a summons, and then release him from the stationhouse. § 87(2)(b) never heard § 87(2)(b) curse at the officers during the incident. § 87(2)(b) parked § 87(2)(b)'s van. § 87(2)(b) did not return until two days later, when he explained what happened to § 87(2)(b).

§ 87(2)(b) was shown a photo array consisting of twelve single photos of officers. The photos consisted of potential subject officers PO Quiroz, PO Paul Parkinson, PO Ralph Pabon, PO Rafael Gonzalez, and Sgt. Christopher Giambrone and six filler photos. § 87(2)(b) identified only PO Quiroz and stated that he was the officer who put his knee in § 87(2)(b)'s back.

On November 5, 2008, § 87(2)(b) provided a brief telephone statement to the CCRB which was similar to his official statement (encl. 6).

NYPD Statement(s):

Subject Officer: PO JUAN QUIROZ

- PO Quiroz is a § 87(2)(b)-old Hispanic male with black hair and black eyes who is 5'10" tall and weighs 210 lbs.
- PO Quiroz worked from 5:30 PM on October 10, 2008 until 2:05 AM on October 11, 2008. He was assigned to patrol conditions with PO Deitch, who is no longer employed by the NYPD. He was in uniform.

Complaint Report and Arrest Report for § 87(2)(b)

The complaint report and arrest report for the arrest of § 87(2)(b) (encl. 8-9) provide the following narrative. On October 10, 2008, at approximately 7:20 PM, PO Quiroz observed § 87(2)(b)

§ 87(2)(b) inside a motor vehicle whose radio could be heard at least one block away. PO Quiroz attempted to write § 87(2)(b) a summons, but § 87(2)(b) threw his identification into his vehicle and closed the door. § 87(2)(b) would not allow PO Quiroz to handcuff him and put his hands close to his body.

Memo Book

PO Quiroz's memo book (encl. 10) contains an entry at 1920 hours indicating a male was stopped and an entry at 1923 hours indicating that he was arrested. An entry at 1937 hours indicates that they arrived at the stationhouse and that § 87(2)(b) complained that PO Quiroz kicked him in the back. An entry at 2150 hours indicates that § 87(2)(b) requested EMS. PO Quiroz noted that the entries at 2300 and 2335 hours were written statements by the two EMTs who responded to the incident. One indicates that no obvious injury was noted and the other states that the patient has a previous lower back injury.

CCRB Statement

On April 28, 2009, PO Juan Quiroz was interviewed at the CCRB (encl. 11). PO Quiroz and PO Deitch were driving eastbound on Empire Boulevard. They heard music playing way too loudly. It was coming from § 87(2)(b). The officers pulled up right next to the alleyway, where they saw § 87(2)(b) standing outside a minivan that was running with the music blasting. There was also a young man and, at the far end of the alleyway, two other individuals. While the officers were still inside the car, they asked the individual, "Sir, can you please turn down your music? It's way too loud. People have to go to work tomorrow." § 87(2)(b) cursed at PO Quiroz, saying, "Get the fuck out of here. Who do you think you are?" PO Quiroz stepped out of the car. § 87(2)(b) cursed back at PO Quiroz, saying again, "Get the fuck out of here. Who the fuck do you think you are?" PO Quiroz approached § 87(2)(b) to issue him a summons for loud music. PO Deitch followed behind PO Quiroz. PO Quiroz asked § 87(2)(b) for his identification. § 87(2)(b) said, "I have no ID." PO Quiroz said, "I see your wallet in your pocket, sir. Please take it out and let me see your ID." § 87(2)(b) took his wallet out of his pocket, threw it inside the minivan, shut the door, and locked it with a key. The window was open. PO Quiroz approached § 87(2)(b). § 87(2)(b) tried to jump inside the minivan. § 87(2)(b)'s body was half in and half out of the minivan. At that moment, PO Quiroz feared for § 87(2)(b)'s safety. PO Quiroz pulled § 87(2)(b) out of the minivan. § 87(2)(b) was pushing PO Quiroz with his hands. PO Quiroz grabbed both of § 87(2)(b)'s hands and put him against the minivan. PO Quiroz attempted to handcuff § 87(2)(b). § 87(2)(b) pulled his hands close to his body and refused to give PO Quiroz his hands. PO Quiroz placed him under arrest. PO Quiroz took § 87(2)(b) back to his car. As they were going back to the car, § 87(2)(b) said, "Oh, you just kicked me in my back while I was in handcuffs," and then said, "You kicked me before I got into the car." PO Quiroz said, "Get it straight, before you make an allegation." PO Quiroz never struck § 87(2)(b) with his knee or kicked him. PO Deitch did not interact with § 87(2)(b). PO Quiroz brought § 87(2)(b) back to his car. PO Deitch did not enter § 87(2)(b)'s minivan or open the door. PO Deitch did not retrieve anything from the minivan. As soon as § 87(2)(b) told PO Quiroz that PO Quiroz had kicked him, PO Quiroz planned to call EMS. § 87(2)(b) requested EMS while in the cell in the precinct. PO Quiroz then called EMS. This was only an hour and fifteen minutes after he was arrested. § 87(2)(b) did not request EMS before this, including during the ride to the precinct.

Subject Officer: PO TERENCE DEITCH

- According to MAS, PO Deitch was terminated on December 11, 2008. Consequently, the CCRB was unable to obtain a statement from him.

Medical Records

The ambulance call report indicates that § 87(2)(b) had no medical problem, but notes that he had pain to his lower back and pain and swelling to his lower leg. This complaint was repeated to the physician and he was subsequently prescribed ibuprofen (encl. 13).

NYPD Document(s)

The 71st Precinct roll call indicates that PO Quiroz was assigned to conditions and PO Deitch assigned to Impact (encl. 15).

The command log contains an entry for the arrest of § 87(2)(b) at 1930 hours. Notes indicate that he was taken to § 87(2)(b) at 2350 hours and returned at 0305 hours. His condition is listed as apparently normal (encl. 16).

Summons/Arrest for Incident and Disposition

- The Office of Court Administration database contains no record of the charges associated with this incident (encl. 17H).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of December 2, 2009 with regard to the incident (encl. 20D).

Civilian Criminal History

- § 87(2)(b) (encl. 17).

Civilian CCRB History

- § 87(2)(b) has filed eight prior complaints with the CCRB. None of the CCRB complaints were substantiated (encl. 18).
- § 87(2)(b)
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-
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-
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- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Subject Officer(s) CCRB History

- PO Quiroz has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 1A).

Conclusion

Identification of Subject Officer(s)

- PO Quiroz was identified as the arresting officer by the arrest report, confirmed that he interacted with § 87(2)(b) [REDACTED] and was identified by photo array by § 87(2)(b) [REDACTED] as the officer who used physical force against § 87(2)(b) [REDACTED]
- PO Quiroz identified PO Deitch as the other officer present at the incident.

Investigative Findings and Recommendations

Allegation A – Force: PO Juan Quiroz used physical force against § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] alleged that PO Quiroz swung him around and struck him in the small of his back with his knee, causing him to hit the van with the right side of his stomach and the right side of his right calf. PO Quiroz stated that § 87(2)(b) [REDACTED] resisted his attempts to handcuff him, but he never struck § 87(2)(b) [REDACTED] with his knee. § 87(2)(b) [REDACTED] corroborated § 87(2)(b) [REDACTED]'s account, § 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b) [REDACTED] claimed that his leg was bruised due to being struck against his van. However, the EMS workers stated in their ambulance call report that § 87(2)(b) [REDACTED] attributed the bruise to hitting his leg against the police vehicle while entering.

§ 87(2)(g) [REDACTED]

[REDACTED]

[REDACTED]

Allegation B – Abuse of Authority: PO Terence Deitch searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.

Team: _____

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Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date